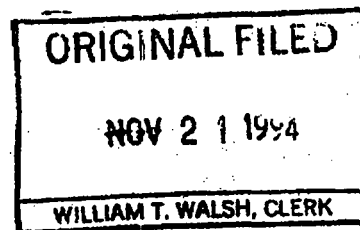


ALEX ALBERT BEEHLER
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources
Division
Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-4185
AAB 4185



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLEVELAND INDUSTRIAL CENTER,
EVERSDEN L. CLARK, JR., and
JOHN LOGAN,

Defendants.

CIVIL ACTION NO. 94-5500 (WGB)

COMPLAINT

The United States of America, by authority of the Attorney General of the United States of America and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:



STATEMENT OF THE CASE

1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9607. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the United States seeks to recover certain costs incurred by the United States in responding, under Section 104 of CERCLA, 42 U.S.C. § 9604, to the release and threat of release of hazardous substances into the environment at or from a site known as the Fabritex Mills, Inc. Site in Long Valley, Washington Township, Morris County, New Jersey (the "Site").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b), because the events giving rise to the claims arose in this district, the release and threat of release of hazardous substances occurred in this district, and each defendant resides or has done business in this district.

THE DEFENDANTS

4. Defendant Cleaveland Industrial Center ("CIC") is a partnership duly organized and existing under the laws of the State of New Jersey. Since 1980, CIC continuously has owned the property a part of which now comprises the Site.

5. On information and belief, defendant Eversden L. Clark Jr. ("Clark"), at all times relevant hereto, was and is a general partner in CIC.

6. On information and belief, defendant John Logan ("Logan"), at all times relevant hereto, was and is a general partner in CIC.

7. Each defendant is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

GENERAL ALLEGATIONS

8. The Site is situated in an industrial park on approximately 18 acres in a semi-rural area at 20 Parker Road, Long Valley, Washington Township, Morris County, New Jersey, designated as Block 60, Lot 14, on the tax map of Washington Township.

9. A population of 600 lives within a half-mile radius of the Site.

10. Ten one-story buildings, including production structures, a laboratory and an office, are located on the Site; seven of these structures were included as part of EPA's response action.

11. Beginning in 1980 and continuing through the present, CIC has owned the Site.

12. Beginning in 1980 and continuing through at least 1987, CIC leased a portion of the Site to Fabritex Mills, Inc. ("Fabritex") which operated a fabric coater manufacturing facility there.

13. In 1986, Fabritex ceased its manufacturing operations and abandoned large quantities of flammable solvents, caustics, dry chemicals, and small laboratory vessels containing "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

14. In 1989 and 1990, EPA conducted a preliminary assessment and inspection at the Site. EPA found 1200 small laboratory vessels, more than 300 drums, and several vats, all containing chemicals, at the Site. A number of containers had spilled or leaked their contents onto the floors of the buildings in which they were stored, and several bulging drums threatened to leak their contents into the environment.

15. Samples taken from the containers found at the Site and inspection of drums and content labels found at the Site by EPA reveal that, inter alia, tetrachloroethylene, asbestos, cyanide, methyl-ethyl ketone, acetone, sodium hydroxide, toluene, acetone, and methylene chloride were released into the environment or threatened to be released to the environment at the Site.

16. Each of the substances identified above in Paragraph 15 is a "hazardous substance" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

17. From at least 1986 until 1991, there were "releases," within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), or threatened releases of "hazardous substances" into the environment at and from the Site.

18. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

19. In January 1991, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, EPA undertook a removal action consisting of the following activities: 1) installation of locks on all buildings and boarding up broken windows; (2) sampling and inventorying drums and containers for disposal off-site; (3) return of contents of 105 containers and 600 pounds of dry chemicals to original manufacturers; and 4) shipment of 218 drums of materials for incineration or fuel blending and of a trailer load of empty drums for recycling.

20. EPA conducted the removal action from January 1991 to November 22, 1991.

21. The release or threat of release of hazardous substances at or from the Site has caused the United States to incur unreimbursed "response costs," within the meaning of Sections 101(25) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(25), 9607(a), including costs for the study of the Site and performance of removal actions.

22. To date, the United States has expended in excess° of \$510,152.38 in response to the release or threat of release of hazardous substances at the Site.

CLAIM FOR RELIEF

23. The allegations contained in Paragraphs 1 through 22 are realleged and incorporated herein by reference.

24. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,

from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for --

- (A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan

25. Defendant CIC is liable under Section 107(a)(1) or (2) of CERCLA, 42 U.S.C. § 9607(a)(1) or (2), as a person who (a) is the current owner of a facility from which there was a release, or threat of release, of hazardous substances; or (b) was the owner of a facility at the time of disposal of hazardous substances at a facility from which there was a release or a threat of release of hazardous substances.

26. Defendant Clark is liable under the New Jersey Uniform Partnership Law, New Jersey Statutes Annotated 42: 1-15(b), for

all debts of defendant CIC. Defendant Clark is liable for any unsatisfied amount of CIC's obligation to reimburse EPA for expenses incurred at the Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

27. Defendant Logan is liable under the New Jersey Uniform Partnership Law, New Jersey Statutes Annotated 42:1-15(b), for all debts of CIC. Defendant Logan is liable for any unsatisfied amount of CIC's obligation to reimburse EPA for expenses incurred at the Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

28. The United States has incurred unreimbursed response costs, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), in response to the release or threat of release of hazardous substances at or from the Site.

29. The costs of response actions taken by the United States in connection with the Site were incurred in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

30. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the defendants are jointly and severally liable to the United States for all response costs incurred by the United States in response to the release or threat of release of hazardous substances at or from the Site.

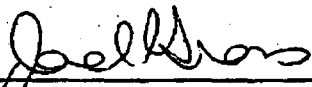
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, prays that this Court:

1. Enter judgment against the defendants, jointly and severally, and in favor of the United States for all response costs incurred by the United States in response to the release or threat of release of hazardous substances at or from the Site, which costs are currently in excess of \$510,000, plus interest;
2. Award the United States its costs, including the costs of this enforcement action, attorneys' fees, and other expenses; and
3. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources
Division



JOEL M. GROSS
Acting Chief
Environmental Enforcement Section
Environment and Natural Resources
Division

Alex A. Beehler

ALEX A. BEEHLER
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources
Division
Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-4185

FAITH S. HOCHBERG
United States Attorney
District of New Jersey

Susan C. Cassell

By:

SUSAN C. CASSELL
Assistant United States Attorney
District of New Jersey
United States Attorney's Office
970 Broad Street
Room 502
Newark, New Jersey 07102

OF COUNSEL

MICHAEL VAN ITALLIE
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region II
New Jersey Superfund Branch
Javits Federal Building
26 Federal Plaza
New York, New York 10278-0012
(212) 264-9194

CLEVELAND INDUSTRIAL CENTER

02-94-0214

3 Det's

Filed 11/21/94

94-5500 (WGB)